IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LODG.) NO.3078 OF 2004

Rashtriya Bima Karmachari Union ..Petitioner.
Vs.
General Insurers' (Public Sector) Association
of India & Ors. ..
Respondents.

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Mr. A.K. Tripathi i/b Mr. P.V. Dhopatkar for the petitioner.
Mr. K.J. Presswala i/b Mulla & Mulla for respondent No.1.
Mr. Y.R. Mishra with Mr. D.A. Dubey for respondent No.2.

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CORAM : DALVEER BHANDARI, C.J.&
DR.D.Y.CHANDRACHUD, J.

13th December, 2004.

P.C. :

1. The Petitioner which is a trade union in the insurance sector, registered under the provisions of the Trade Unions Act, 1926 has preferred this petition with a prayer that respondent No. 2 – Union of India through Secretary- Finance, Government of India be directed to take action against General Insurers' (Public Sector) Association of India and its officers and also directing respondent No.1 to implement the 2nd Respondent's order dated 1st August, 2003.

2. In pursuance to the show cause notice issued by this Court, an affidavit has been filed by Krishna Chandra Hessa, Manager (Legal) of New India Assurance Co. Ltd. In order to ascertain whether the union had a genuine representative character in the acquiring companies, the First Respondent decided to introduce a Check off System – one for the purpose of discussing wage revision and another for the purpose of grievance of Scheduled Caste and Scheduled Tribe by a circular dated 1st January, 2004.

3. It may be pertinent to mention that the Petitioner in these proceedings or in any other proceedings have not challenged the Check off system. On the contrary have participated in the whole proceedings. It may be pertinent to mention that according to the Check off system, the employees of the various classes such as Class – I, II, Class III and IV were called upon to inform the management as to the union to which they belong and for which they would authorise the management of the acquiring companies to deduct from their salary the union subscription on their behalf. This was to ascertain the representative nature of the unions for the various classes of employees. It was decided that only those

unions which had 20% more in the following in the respective class would be invited for discussion with the First Respondent. The check off systems are (a) for finding out the representative unions for discussion on service matter including revision of wages; (b) for finding out the representative unions/welfare associations claiming to represent the SC & ST employees of the four acquiring companies with whom the First Respondent could discuss the welfare measures of SC & ST employees. The Petitioner has also set out a circular which is Annexure – A to the affidavit, in which details of the check off system have been enumerated. In the circular dated 25th May, 2004 it is mentioned that in category of Class I there are about 3793 employees, out of them the Petitioner union has only 14 workers which is 0.37% of the total number of employees. Similarly, in Class II there are 2693 employees and the Petitioner's category are 7 only. Similarly, in Class III, IV, FTS & PTS, the total number of employees with the Petitioner union are 33, whereas the total number of employees in this category is more than 10907, which is about 0.30%. In this view of the matter, in which there has been no challenge to the check off system and the Petitioners represent very small number of total employees which is 84 out of 62,000 employees, the prayer made in the

petition cannot be granted. The petition being devoid of any merit, is accordingly dismissed.

CHIEF JUSTICE

DR.D.Y.CHANDRACHUD, J.